

# FIRST DIVISION

[ G.R. No 243786, October 09, 2019 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JENNY  
TECSON Y AVECILLA, ACCUSED-APPELLANT.**

## D E C I S I O N

**PERLAS-BERNABE, J.:**

Assailed in this ordinary appeal<sup>[1]</sup> is the Decision<sup>[2]</sup> dated April 25, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08264, which affirmed the Judgment<sup>[3]</sup> dated April 25, 2016 of the Regional Trial Court of Quezon City, Branch 79 (RTC) in Criminal Case No. R-QZN-14-09130-CR finding accused-appellant Jenny Tecson y AVECILLA (Tecson) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,<sup>[4]</sup> otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

### The Facts

This case stemmed from an Information<sup>[5]</sup> dated September 11, 2014 charging Tecson with the crime of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of RA 9165. The prosecution alleged that at around 5:00 in the afternoon of September 9, 2014, a team of operatives from the Philippine Drug Enforcement Agency (PDEA) conducted a buy-bust operation against Tecson at the Telus Building in Araneta Center, Cubao, Quezon City, during which one (1) knotted transparent plastic bag containing white crystalline substance was recovered from her. As bystanders started to crowd the place of arrest, the PDEA operatives immediately brought Tecson to their office in Quezon City, where they marked, inventoried,<sup>[6]</sup> and photographed<sup>[7]</sup> the seized item in her presence,<sup>[8]</sup> as well as that of Barangay Kagawad Marites M. Palma (Kgd. Palma), and media representative Alex Mendoza (Mendoza). The seized item was then brought to the PDEA Laboratory Service<sup>[9]</sup> where, after examination,<sup>[10]</sup> its contents tested positive for 172.9 grams of methamphetamine hydrochloride or *shabu*, a dangerous drug.<sup>[11]</sup>

In defense, Tecson denied the charge against her, claiming that, at the time and place of her arrest, she was waiting for her interview as a call center agent, when two (2) men suddenly approached and forcibly brought her to the PDEA office in Quezon City, where they demanded an amount of P1,000,000.00 in exchange for her release.<sup>[12]</sup>

In a Judgment<sup>[13]</sup> dated April 25, 2016, the RTC found Tecson **guilty** beyond reasonable doubt of the crime charged, and accordingly, sentenced her to suffer the penalty of life imprisonment and to pay a fine in the amount of P500,000.00.<sup>[14]</sup> It

ruled that the prosecution was able to prove all the elements of the crime charged, and that the integrity of the seized drug was established in accordance with the chain of custody rule. On the other hand, it found Tecson's defenses of denial and frame-up untenable for lack of convincing evidence.<sup>[15]</sup>

Aggrieved, Tecson appealed<sup>[16]</sup> to the CA, arguing that she should be acquitted since the requisite marking, inventory, and photography of the purported drugs were not conducted at the place of arrest, nor were the same witnessed by a representative of the Department of Justice (DOJ).<sup>[17]</sup>

In a Decision<sup>[18]</sup> dated April 25, 2017, the CA **affirmed** Tecson's conviction.<sup>[19]</sup> It found that the integrity of the seized drugs had been properly preserved, and that the conduct of marking, inventory, and photography at the PDEA office constituted sufficient compliance with the chain of custody rule.<sup>[20]</sup>

Hence, this appeal seeking that Tecson's conviction be overturned.

### **The Court's Ruling**

The appeal is without merit.

In every prosecution for the crime of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165, the following elements must be proven beyond reasonable doubt: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.<sup>[21]</sup>

Here, the courts *a quo* correctly found that Tecson committed the crime of Illegal Sale of Dangerous Drugs, as records clearly show that she was caught *in flagrante delicto* selling *shabu* to the poseur-buyer, Intelligence Officer 1 Frederic B. Allosada (IO1 Allosada), during a legitimate buy-bust operation conducted by the PDEA.<sup>[22]</sup> Since there is no indication that the said courts overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case, the Court finds no reason to deviate from their factual findings. In this regard, it should be noted that the trial court was in the best position to assess and determine the credibility of the witnesses presented by both parties.<sup>[23]</sup>

In an attempt to escape conviction, Tecson contends that the chain of custody rule had been violated since the requisite marking, inventory, and photography of the purported drugs were not immediately accomplished at the place of arrest, nor was a representative of the DOJ present when these were conducted.<sup>[24]</sup>

Such contention is untenable.

In cases of Illegal Sale and/or Illegal Possession of Dangerous Drugs under RA 9165, it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.<sup>[25]</sup> Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and, hence, warrants an acquittal.<sup>[26]</sup>

To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.<sup>[27]</sup> As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same. In this regard, case law recognizes that "[m]arking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team."<sup>[28]</sup> Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody.<sup>[29]</sup>

The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640,<sup>[30]</sup> a representative from the media **and** the DOJ, and any elected public official;<sup>[31]</sup> or (b) if **after** the amendment of 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service<sup>[32]</sup> **or** the media.<sup>[33]</sup> The law requires the presence of these witnesses primarily "to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence;"<sup>[34]</sup>

In this case, it is clear from the records that after the conduct of the buy-bust operation, bystanders had already started to crowd the place of arrest, prompting the PDEA operatives to immediately bring Tecson to their office in Quezon City, where IO1 Allosada conducted the requisite marking, inventory, and photography of the seized drugs<sup>[35]</sup> in the presence of Tecson herself,<sup>[36]</sup> as well as an elected public official, *i.e.*, Kgd. Palma, and a media representative, *i.e.*, Mendoza.<sup>[37]</sup> Subsequently, the seized drugs were delivered by IO1 Allosada to the PDEA crime laboratory, where they were received<sup>[38]</sup> and examined<sup>[39]</sup> by Ronald Jefferson A. Narceda, then turned over to evidence custodian Jag Soliven, who took custody of the same until it was brought to court for presentation as evidence.<sup>[40]</sup>

As earlier stated, the failure to immediately conduct the marking, inventory, and photography at the place of arrest does not impair the integrity of the confiscated drugs, as their accomplishment at the office of the apprehending team, whenever practicable is deemed sufficient compliance with the chain of custody rule. Moreover, the absence of a DOJ representative as a witness is not fatal since the crime took place on September 9, 2014, after the effectivity of 10640,<sup>[41]</sup> which merely requires that the inventory and photography of the seized drugs be witnessed by an elected public official and a representative of the National Prosecution Service **or** the media, which was complied with in this case.

In view of the foregoing, the Court holds that the chain of custody over the seized drugs remained unbroken, and that the integrity and evidentiary value of the *corpus delicti* had been properly preserved; hence, Tecson's conviction must stand.